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PUC DOCKET NO. 56481

FORMAL COMPLAINT OF TRINITY	§	PUBLIC UTILITY COMMISSION
EDWARDS SPRINGS PROTECTION	§	
ASSOCIATION, BRENT PULLEY, AND	§	OF TEXAS
DEAN EICHELBERGER AGAINST	§	
AQUA TEXAS, INC.	§	

CLARIFICATION OF FORMAL COMPLAINT

TO THE HONORABLE ADMINSTRATIVE LAW JUDGE:

Trinity Edwards Springs Protection Association (“TESPA”), Brent Pulley and Dean Eichelberger (collectively, “Complainants”), file this Clarification of Formal Complaint in response to Order No. 1 requesting clarification whether Complainants intended to file a formal complaint or informational materials. Complainants incorporate by reference the Formal Complaint in its entirety and hereby clarify that the intention was to file a formal complaint against Aqua Texas, Inc. (“Aqua Texas”).

I. COMPLAINANTS FILED A FORMAL COMPLAINT

On April 9, 2024, Complainants filed a Formal Complaint alleging Aqua Texas failed to comply with multiple Commission Rules. The Formal Complaint included a wealth of information substantiating the allegations, including an affidavit from an expert hydrogeologist attesting to critical factual and technical support of the allegations. Complainants included this information to convey the serious and egregious nature of Aqua Texas’ alleged violations. It appears that initiating the formal complaint process and requesting that the Commission open an investigation created confusion on the nature of the Formal Complaint. While Complainants encourage the Commission to pursue a warranted enforcement action, the Complainants’ intent was to initiate a Formal Complaint to seek relief from the Commission for Aqua Texas’ alleged violations.

II. VIOLATIONS OF TEXAS WATER CODE AND COMMISSION RULES

The ALJ requested in Order No. 1 that Complainants identify specific Statutes and Commission Rules that Aqua Texas has violated. Complainants allege that Aqua Texas violated, and continue to violate, TEX. WATER CODE § 13.250 and Commission Rules 16 TEX. ADMIN. CODE §§ 24.205(a) and 24.227(a). This statutory provision and these Commission rules unequivocally require a CCN holder for water service to have the capability to provide, and to provide, continuous and adequate water service to its customers. As described in the Formal Complaint, Aqua Texas serviced its CCN 11157 customers by intentionally pumping 90 million gallons and 70 million gallons of groundwater beyond its legal limits in 2022 and 2023, respectively. Aqua Texas' relevant groundwater permits have now expired so Complainants believe Aqua Texas is currently providing water service to CCN 11157 customers with an entirely unlawful water supply. This means that if Aqua Texas were a law-abiding utility, then *none* of its CCN11157 customers would have water service. An illegal water supply does not satisfy Commission rules 16 TEX. ADMIN. CODE §§ 24.205(a) and 24.227(a).

Aqua Texas must comply with Texas groundwater law. The Hays Trinity Groundwater Conservation District is actively pursuing groundwater law compliance from Aqua Texas. This presents a dangerous scenario where some, or all, of Aqua Texas's CCN11157 customers lose water service. Aqua Texas, therefore, is in violation of TEX. WATER CODE § 13.250 and Commission Rules 16 TEX. ADMIN. CODE §§ 24.205(a) and 24.227(a) because Aqua Texas' illegal water supply is not an adequate supply of water and Aqua Texas not legally capable of providing continuous and adequate water service to its CCN 11157 customers. The Complainants filed the Formal Complaint to seek relief to resolve this serious situation.

Complainants further allege Aqua Texas violated, and continue to violate, Commission Rule 16 TEX. ADMIN. CODE § 24.205(5) because Aqua Texas has not maintained the infrastructure associated with CCN 11157 that has resulted in egregious line losses of 55 million gallons in 2022.

III. STATEMENT OF REQUESTED RELIEF

The ALJ requested in Order No. 1 that the Complainants provide a statement of the specific relief sought. The Formal Complaint process may provide for discovery and hearing that will likely establish Aqua Texas' violations and provide for needed relief. Complainants respectfully request that a hearing be held to determine whether Aqua Texas has committed violations of the Texas Water Code and/or Commission rules, and, after such hearing, the Commission:

- (1) revoke or decertify all or a portion of CCN 11157 and find an alternative utility to provide water service;
- (2) enjoin Aqua Texas from adding additional connections in CCN 11157 service areas Woodcreek I, Woodcreek II and Mountain Crest; and/or
- (3) require Aqua Texas to repair its water service system to avoid its extensive line losses and waste of water.

Respectfully submitted,

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